

REMARKS

Reconsideration of this application is now being requested. Claims 1-5 are in this application. Claim 1 has been amended.

The oath or declaration was defective because the 1st joint inventor did not provide a date of his/her signature. A replacement oath or declaration is being provided herein.

Claims 1, 3, 5/3 were rejected under 35 U.S.C. §102(b) as being anticipated by Shimizu et al (EP 0328100 A2) and claims 2, 4, 5/4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shimizu in view of Wejke (US 5,175,867). Applicants respectfully traverse. Examiner asserts that present claims 1 and 3 lack novelty in being disclosed by the Shimizu reference. However, Examiner has not, as yet, fulfilled his duty to Applicants of indicating sufficiently precisely as to be understood, where in the cited reference each of the features of claim 1 (or 3) are disclosed. It is respectfully submitted that if the Examiner were to attempt this task, he would discover that Shimizu does not teach all the features of claim 1 (nor claim 3) and that Shimizu teaches contrary to the present invention defined in claim 1 (and claim 3).

Specifically, as regards claim 1, Shimizu does not disclose the feature of claim 1 that “the second base station first receives the information from the radio network controller then receives an uplink frame from the mobile station and only then sends the downlink data to the mobile station”. On the contrary, column 2 lines 4 to 33 of Shimizu discloses a second base station receiving information from a central station (of a reconnect command and copy of last received data packets), then sending data downlink to the mobile station (of a reconnect response and copy of last received data packets). The mobile station then transmits data uplink to the second base station. This is a different sequence of events to that required by claim 1. This difference has advantages. Specifically, embodiments of the present invention have the advantage that with a mobile station in a handover/handoff situation the new base station is primed to receive data from the mobile early in the handover whilst delaying transmission to the mobile until data from the mobile is received. This reduces the risk of the mobile perceiving downlink transmission from the new base station as mere interference.

We turn now to claim 3 which is an independent method claim corresponding to apparatus claim 1. Claim 3 is distinguished over Shimizu by “controlling the second base station, in

Serial No. 09/767,332

response to information from the radio network controller, to receive an uplink frame from the mobile station and only then send downlink data to the mobile station. Shimazu not only does not disclose this feature, but teaches to the contrary. As mentioned previously, Shimazu teaches, see its column 2 lines 4 to 33, second base station receiving information from a central station (of a reconnect command and copy of last received data packets), then sending data downlink to the mobile station (of a reconnect response and copy of last received data packets). The mobile station then transmits data uplink to the second base station. This is a different sequence of events.

As mentioned in respect of claim 1 above, this difference has advantages. Specifically, embodiments of the present invention have the advantage that with a mobile station in a handover/handoff situation the new base station is primed to receive data from the mobile early in the handover whilst delaying transmission to the mobile until data from the mobile is received. This reduces the risk of the mobile perceiving downlink transmission from the new base station as mere interference.

Claims 2, 4 and 5 are allowable not least on the basis that they depend on allowable base claims.

Accordingly, it is felt that claims 1, 3, 5/3 are patentable under 35 U.S.C. §102(b) over Shimizu et al, and claims 2, 4, 5/4 are patentable under 35 U.S.C. §103(a) over Shimizu in view of Wejke.

A two month extension fee is due.

Respectfully,
David Bhatoolaul
Qiang Cao
Patrick Charriere
Babul Miah
Michael Roberts

By 

Jimmy Goo, Esq.

Reg. No. 36,528

(973) 386-6377

Date: August 16, 2004